

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

**International Refugee Assistance Project; HIAS, Inc.; Middle East Studies Association of North America, Inc.; Muhammed Meteab; Paul Harrison; Ibrahim Ahmed Mohamed; John Does Nos. 1 and 3; and Jane Doe No. 2,**

Plaintiffs/Appellees,

v.

**Donald J. Trump, Department of Homeland Security, Department of State, Office of the Director of National Intelligence, John F. Kelly, Rex W. Tillerson, and Daniel R. Coats,**

Defendants/Appellants.

Case 17-1351

**NAPABA'S AMENDED MOTION FOR LEAVE TO FILE  
AMICUS-CURIAE BRIEF IN SUPPORT OF PLAINTIFFS**

The National Asian Pacific American Bar Association hereby moves the Court for leave to file an amicus-curiae brief in support of Plaintiffs. Fed. R. App. P. 29(a)(2). NAPABA's proposed brief is attached as Exhibit 1 to its original motion (ECF No. 188). *Id.* R. 29(a)(3).<sup>\*</sup> As explained below, NAPABA has a strong interest in this matter and its brief presents relevant context for the dispute

---

<sup>\*</sup> NAPABA did not secure the parties' consent and therefore moves for leave to file its amicus brief.

over whether the United States can legally exclude aliens on the basis of national origin.

NAPABA is the national association of Asian Pacific American attorneys, judges, law professors, and law students, representing the interests of over seventy-five state and local Asian Pacific American bar associations and nearly 50,000 attorneys who work in solo practices, large firms, corporations, legal services organizations, nonprofit organizations, law schools, and government agencies. Since its inception in 1988, NAPABA has served as the national voice for Asian Pacific Americans in the legal profession and has promoted justice, equity, and opportunity for Asian Pacific Americans. In furtherance of its mission, NAPABA opposes discrimination, including on the basis of race, religion, and national origin, and promotes the equitable treatment of all under the law.

NAPABA fulfills “the classic role of *amicus curiae* by assisting in a case of general public interest, supplementing the efforts of counsel, and drawing the court’s attention to law that escaped consideration.” *Miller-Wohl Co. v. Comm’r of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982); *see also Missouri v. Harris*, No. 2:14-CV-00341-KJM, 2014 WL 2987284, at \*2 (E.D. Cal. July 1, 2014) (citing *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995), and discussing courts’ “broad discretion regarding the appointment of *amici*”).

This case concerns the government's use of national origin to exclude individuals from the United States. *See generally* Exec. Order No. 13780, 82 Fed. Reg. 13,209 (Mar. 6, 2017). NAPABA's brief highlights the history of nationality-based immigration discrimination as it has affected the Asian Pacific Islander community and addresses statutory limitations on executive discretion imposed by the Immigration and Nationality Act, which Congress intended to serve as a bar against nationality-based discrimination, as well as the Constitution of the United States.

Accordingly, NAPABA urges the Court to grant it leave to file its amicus-curiae brief and deem the attached brief as filed in this matter.

Dated: April 22, 2017

Tina R. Matsuoka  
Navdeep Singh  
Meredith S.H. Higashi  
Rachana Pathak  
Albert Giang  
National Asian Pacific American Bar  
Association  
1612 K Street, Northwest, Suite 510  
Washington, D.C. 20006  
202.775.9555  
202.775.9333 fax

*Of Counsel to NAPABA*

Respectfully submitted,

s/Joshua David Rogaczewski  
Joshua David Rogaczewski<sup>\*</sup>  
(jrogaczewski@mwe.com)  
James W. Kim<sup>†</sup>  
(jakim@mwe.com)  
Philip J. Levine<sup>†</sup> (plevine@mwe.com)  
McDermott Will & Emery LLP  
The McDermott Building  
500 North Capitol Street, Northwest  
Washington, D.C. 20001  
202.756.8195  
202.591.2757 fax

<sup>\*</sup> *Counsel to NAPABA*

<sup>†</sup> *Of Counsel to NAPABA*

**CERTIFICATE OF COMPLIANCE WITH TYPE–VOLUME  
LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE-STYLE  
REQUIREMENTS**

1. This brief complies with the type–volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A), because it contains 411 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

2. This brief complies with the typeface requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) and 32(a)(5) and the type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) and 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word (version 14.0.7172.5000 (32-bit)) with 14-point Times New Roman.

Dated: April 22, 2017

s/Joshua David Rogaczewski  
Joshua David Rogaczewski  
*Counsel to NAPABA*

## **PROOF OF SERVICE**

I hereby certify that the foregoing **NAPABA's Amended Motion for Leave To File Amicus-Curiae Brief in Support of Plaintiffs** was filed on April 22, 2017, using the Court's Electronic Case Filing system, which automatically generates and sends by email a Notice of Docket Activity to all registered attorneys participating in this case.

s/Joshua David Rogaczewski  
Joshua David Rogaczewski